



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774  
**TELEPHONE (301) 952-3220**

## *NOTICE OF FINAL DECISION*

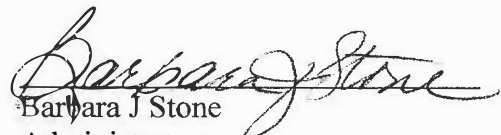
### *OF BOARD OF APPEALS*

RE: Case No. V-43-22 Hector C. Rodriguez Padilla

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: June 22, 2022.

## **CERTIFICATE OF SERVICE**

This is to certify that on October 19, 2022, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
Barbara J Stone  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting

**BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND**  
***Sitting as the Board of Zoning Appeals***

Petitioner: Hector Rodriguez Padilla

Appeal No.: V-43-22

Subject Property: Lots 9, 10, 28 and 29, Block 73, Greater Capitol Heights, being 1308 Larchmont Avenue,  
Capitol Heights, Prince George's County, Maryland

Witness: Tamir Ezzat, Architect

Heard and Decided: June 22, 2022

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
Albert C. Scott, Vice Chairman  
Anastasia T. Johnson, Member

**RESOLUTION**

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-442(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth and each lot shall have a side yard at least 8 feet in width. Section 27-420(a) which prescribes that fence more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings; on lots consisting of one (1) acre or less, fences in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions (front yard depth, side yard width and waiver of the fence location and height requirements) and obtain a building permit for the reconstruction of an existing one-story dwelling. Variances of 16.2 feet front yard depth and 5.6 feet side yard width and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Larchmont Avenue) are requested.

**Evidence Presented**

1. The property was subdivided in 1909, contains 8,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 6, 7 and 8 (A) thru (G).

2. The subject property is considered a "through lot" consisting of Lots 9, 10, 28 and 29, Block 73. The property is very narrow and long (40 feet wide by 200 feet long). As a through lot, Larchmont Avenue is in front of the dwelling and Mentor Avenue is behind the house. The property does not have a rear yard, but two front yards and two side yards. Exhs. 2, 4, 6, 7 and 8 (A) thru (G).

3. Petitioner proposes to validate existing conditions (front yard depth, side yard width and waiver of the fence location and height requirements) and obtain a building permit for the reconstruction of an existing one-story dwelling. Due to the property being subdivided in 1909 and the dwelling being constructed in 1930, the existing conditions of front yard depth and side yard width which predates the current Zoning Ordinance. Variances of 16.2 feet front yard depth and 5.6 feet side yard width are necessary. In addition, an existing 6-foot fence is located on both sides of the property, running the side property lines to the front property line against Larchmont Avenue, therefore a waiver of the height and location requirement for a fence in the front yard is required. Exhs. 2, 4, 6, 7 and 8 (A) thru (G).



4. Tamir Ezzat, Mr. Padilla's architect, stated that the dwelling is in massive disrepair. He further stated that the intent is to maintain the existing footprint and foundation of the home and reconstruct the shell structure (walls and roof). He explained that Mr. Rodriguez is working with the "State Grant" program to help re-establish his home for livability. In order to do that, the home must be torn down leaving the foundation. He opined that it would still be qualified as a rebuild and not necessarily a new build, but nevertheless, when filing for permits it would show that they are building on existing footprint which would trigger the requirement for variances to be able to maintain the existing setbacks. The rear of the house will have stairs as the topography and grade drops toward the back of the house (Mentor Avenue), approximately a 10-foot. Exhs. 2, 3 (a) thru (d) and 5 (A) thru (G).

5. The fence surrounding the dwelling is a 6-foot fence, except for the part of the fence in the front of the dwelling along Larchmont Avenue which is 4-foot. The 6-foot fence also does not run the full side length to the rear property line. The 6-foot fence crosses the lots just beyond lots 8 and 9, onto Lots 9 and 10. Exhs. 2, 3 (a) thru (d) and 5 (A) thru (G).

6. Mr. Padilla stated that the rear lots (Lots 9 and 10) are open land (partially unfenced). Exhs. 2, 3 (a) thru (d) and 5 (A) thru (G).

7. He further stated that neighbors have been very supportive of the redevelopment that is proposed.

#### Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

#### Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a through lot, the dwelling being in massive disrepair, the need to tear down the dwelling and leaving the foundation to rebuild the house on the existing footprint, the intention to keep all fencing as the existing and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 16.2 feet front yard depth and 5.6 feet side yard width and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Larchmont Avenue) in order to validate existing conditions (front yard depth, side yard width and waiver of the fence location and height requirements) and obtain a building permit for the reconstruction of an existing one-story dwelling on the property located at 1308 Larchmont Avenue, Capitol Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (D).

BOARD OF ZONING APPEALS

By:

  
Bobbie S. Mack, Chairperson

**NOTICE**

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.



**LEGEND**

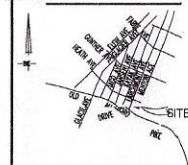
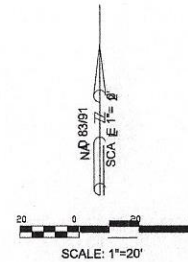
— PROPERTY LINE

- - - EXISTING CONTOUR

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APPROVED JUN 22 2022

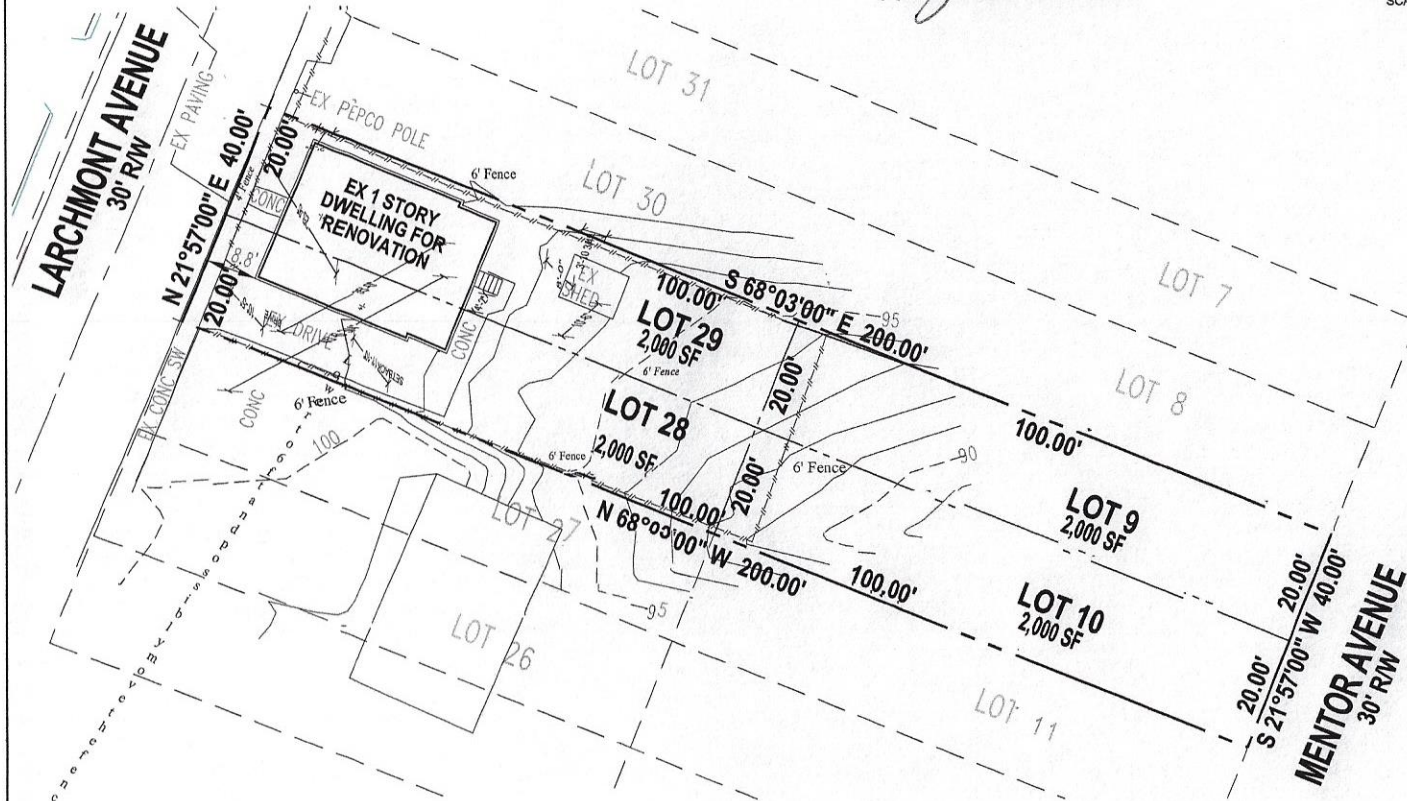
*[Signature]*  
ADMINISTRATOR



VICINITY MAP  
SCALE: 1"=200'

**GENERAL NOTES**

1. SITE ADDRESS IS 1308 LARCHMONT AVENUE, CAPITOL HEIGHTS, MD 20743
2. TAX ID NUMBER: 190081
3. PLAT REFERENCE: PLAT BOOK 805 1 PLAT 63
4. DEED REFERENCE: LIBER 33074 FOLIO 473
5. SITE IS LOCATED ON TAX MAP 72 GRID E3
6. SITE IS LOCATED ON WBS 200 SHEET NO. 203BES
7. EXISTING WATER AND SEWER CATEGORY IS W-1 & S-1
8. SITE HAS EXISTING WATER & SEWER AVAILABLE
9. EXISTING ZONING IS R-6S
10. BUILDING RESTRICTION LINES:  
FRONT = 25 FEET  
SIDE = 7 FEET  
REAR = 25 FEET  
COVERED = 30%
11. EXISTING ADJ. IS BIRCHMOUNT URBAN LAND COMPLEX, 15-25% SLOPES, CROWN HILL URBAN LAND COMPLEX, 15-25% SLOPES
12. TOPOGRAPHY BY FIELD SURVEY BY RICHARD & ASSOCIATES, LLC, NOVEMBER 2021
13. WATERBODIES: ANACOSTIA RIVER
14. UTILITY COMPANIES:  
ELECTRIC: PEPCO  
WATER & SEWER: WISBO  
TELEPHONE: VERIZON  
CABLE: COMCAST
15. OWNER:  
HECTOR G R PADILLA AND SILVIA GUTIERREZ  
1308 LARCHMONT AVENUE  
CAPITOL HEIGHTS, MD 20743



**MISS UTILITY**

CALL "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF WORK. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDER GROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THESE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 36A OF THE MONTGOMERY COUNTY CODE.

EXH. # 2  
V-43-22

**PROFESSIONAL CERTIFICATION**

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND. LICENSE NO. 14518, EXPIRATION DATE: 06/15/2023.

*[Signature]*  
DEAN PACKARD, P.E. 03/22/2022  
DATE

PACKARD & ASSOCIATES, LLC  
CIVIL ENGINEERS & SURVEYORS  
10200 FREDERICK ROAD, SUITE 300  
FARMERS BRANCH, MARYLAND 20741  
TELEPHONE: 301-288-6200 FAX: 301-208-1219



**SITE PLAN**  
LOTS 9, 10, 28, & 29 - BLOCK 73  
GREATER CAPITOL HEIGHTS  
RECORDED AS PLAT BOOK 805 1 PLAT 63 (L-33074 F. 473)  
1308 LARCHMONT AVENUE, CAPITOL HEIGHTS, MD 20743  
CAPITOL HEIGHTS DEVELOPMENT, INC. (FORMERLY CAPITOL HEIGHTS DEVELOPMENT, INC.)

SCALE 1"=30'	OWNER
DRAWN	DATE
FILED FILE NAME 03/22/2022	
JOB NO.	
DRAWING NO. SHEET 1 of 1	

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*[Signature]*  
ADMINISTRATOR



3(a)

EXH. # 3(a-d)  
V-43-22

PROPOSED FRONT ELEVATION



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*[Signature]*  
ADMINISTRATOR



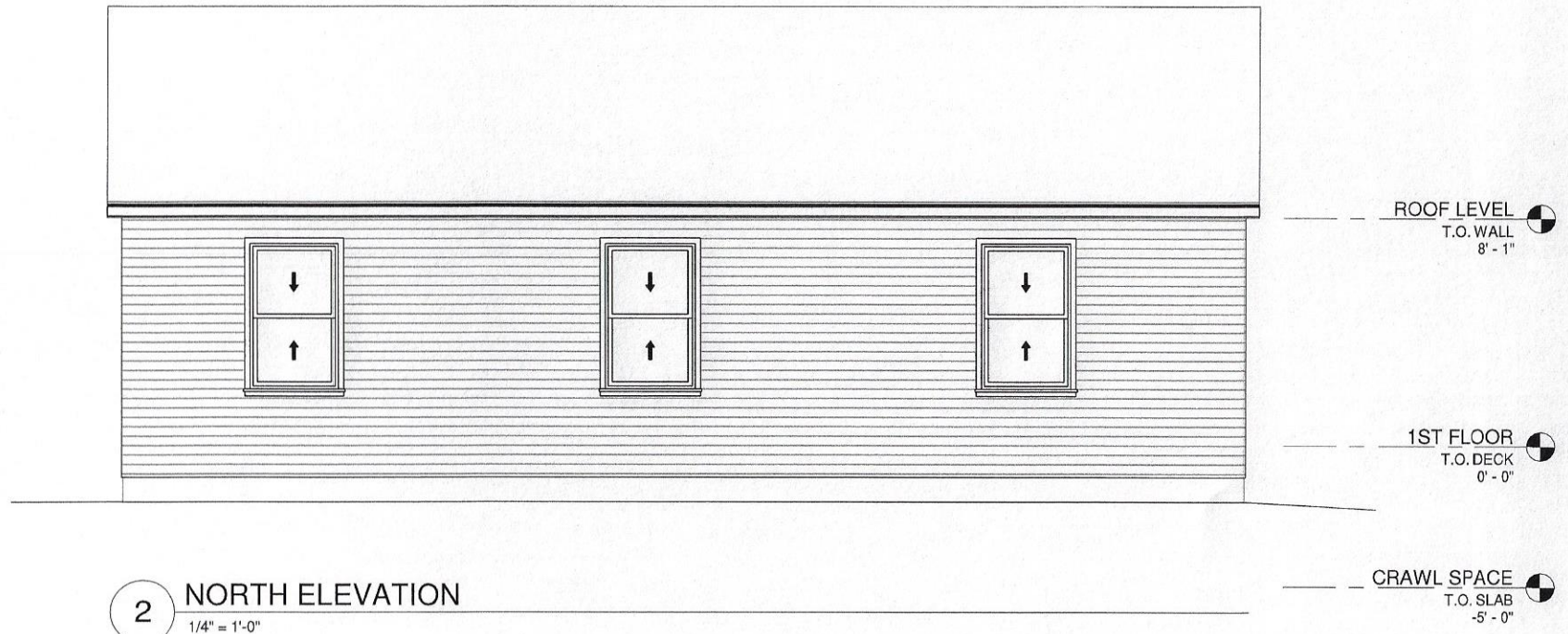
3(b)

PROPOSED REAR ELEVATION

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ADMINISTRATOR



3(c)

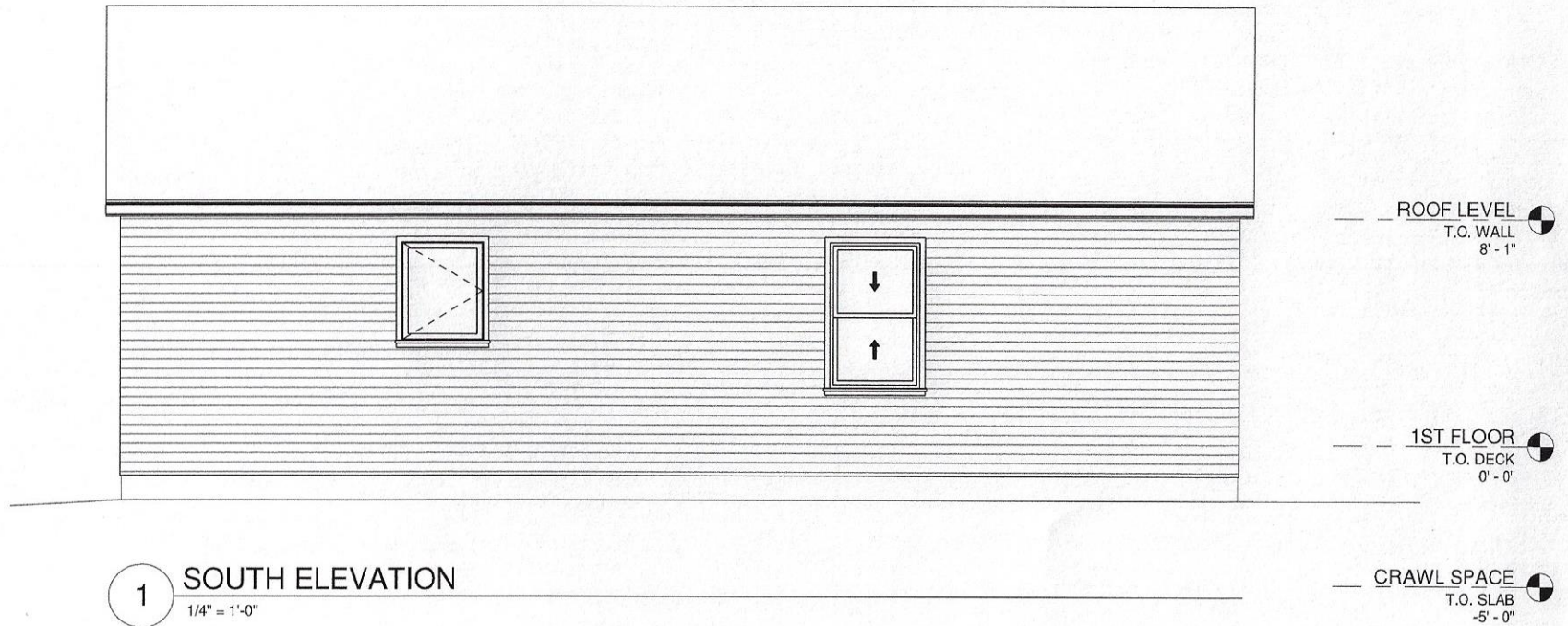
PROPOSED NORTH ELEVATION



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ADMINISTRATOR



3(d)

PROPOSED NORTH ELEVATION